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6 *Attorneys for Complainant*

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2011-376*

12 **TINA MARIA DRAKE**
13 **AKA TINA MARIA LEVIT**
14 **7131 Bart Hollow**
15 **San Antonio, TX 78250**

A C C U S A T I O N

16 **Registered Nurse License No. 678909**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.E.D., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
22 Department of Consumer Affairs.

23 **Registered Nurse License**

24 2. On or about May 8, 2006, the Board issued Registered Nurse License Number
25 678909 to Tina Maria Drake, aka Tina Maria Levit ("Respondent"). The registered nurse license
26 was in full force and effect at all times relevant to the charges brought herein and will expire on
27 April 30, 2012, unless renewed.

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4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the

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(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action....

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6. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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7. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by the Texas State Board of Nursing (“Texas Board”), as follows:

1 8. On or about May 11, 2009, pursuant to an Agreed Order, in the disciplinary action
2 entitled *In the Matter of Registered Nurse License Number 709536 issued to Tina Maria Drake*,
3 the Texas Board issued the sanction of WARNING WITH STIPULATIONS.

4 9. The Texas Board based its Order on the following facts:

5 a. On or about September 2006, Respondent was employed as a Staff Nurse with The
6 Quest Group and assigned to Methodist Healthcare System, San Antonio, Texas.

7 b. On or about September 19, 2006, Respondent, who was paired with K. Failho, a
8 Licensed Vocational Nurse ("Failho"), failed to adequately supervise the nursing care
9 delivered to Patient number W118167154 ("Patient"). Failho had not completed the
10 required facility I.V. Medication Administration Course and requested the assistance of
11 Respondent to administer Diprivan intravenously to Patient.

12 c. The Diprivan medication had been entered erroneously on the patient's Medication
13 Administration Record ("MAR") by the pharmacy and was an inappropriate medication
14 for the patient's diagnosis. Respondent failed to review the patient's MAR to verify the
15 physician's order for Diprivan and failed to review information regarding the Diprivan
16 medication. Instead, Respondent directed Failho to contact the pharmacy for any
17 medication questions.

18 d. Respondent failed to supervise Failho while she administered the medication
19 Diprivan intravenously to Patient. Respondent's conduct and failure to supervise Failho
20 contributed to the injury of Patient from adverse reactions due to the incorrectly
21 administered medication, which may have contributed to Patient's demise.

22 e. On or about September 19, 2006, Respondent failed to know the rationale and effects
23 of the medication, Diprivan, which was erroneously ordered for Patient. Respondent
24 failed to obtain the knowledge and instruction regarding unfamiliar medication, prior to its
25 administration. Respondent's failure to know the rationale and effects of Diprivan,
26 contributed to the incorrect administration of Diprivan to Patient, and the adverse
27 reactions which may have contributed to Patient's demise.
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1 f. Respondent stated that she was talking with the shift coordinator when Failho asked
2 them for assistance with the Diprivan medication order for Patient. Respondent told her to
3 contact the pharmacy to ask questions about the medication Diprivan. Respondent stated
4 there was a breakdown in communication and she was unaware that she was supposed to
5 assess and cosign Failho's charts until after the medication was given, and Patient suffered
6 an adverse reaction.

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8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct)**

10 10. Respondent is subject to discipline under Code section 2761, subdivision (a), on the
11 grounds of unprofessional conduct, Respondent committed acts constituting unprofessional
12 conduct, as more particularly set forth in paragraphs 7 through 9, above.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board of Registered Nursing issue a decision:

16 1. Revoking or suspending Registered Nurse License Number 678909, issued to Tina
17 Maria Drake, aka Tina Maria Levit;

18 2. Ordering Tina Maria Drake, aka Tina Maria Levit, to pay the Board of Registered
19 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
20 Business and Professions Code section 125.3; and,

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: October 25, 2010

23 *Louise R. Bailey*
24 LOUISE R. BAILEY, M.E.D., RN
25 Interim Executive Officer
26 Board of Registered Nursing
27 Department of Consumer Affairs
28 State of California
Complainant

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